

GROWTH AND DEVELOPMENT

Duxbury Clipper



ON THE WEB: www.duxburyclipper.com

E-MAIL: editor@duxburyclipper.com

Newsroom: 781-934-2811 x25

Advertising: 781-934-2811 x23

VOLUME LXI NO. 1

"I'm through accepting limits, cause someone says they're so." — Stephen Schwartz

WEL

*****CAR-RT WSH**R-01
C011850 A 04/27/11 W 74 S 3
DUXBURY FREE LIBRARY
77 ALDEN ST
DUXBURY MA 02332-3878



1.00
5.2011

lot 2

Zoning board compromises

Upholds decision on River Lane guest house, with conditions

By JUSTIN GRAEBER, CLIPPER EDITOR
JUSTIN@DUXBURYCLIPPER.COM

The Zoning Board played the part of King Solomon at their meeting Monday night, coming up with a compromise on a hotly disputed zoning enforcement case.

The board ruled that the town's building inspector, Scott Lambiase, was correct in issuing a building permit to a homeowner at 21 River Lane for the purposes of building a guest house. However, they attached some conditions to

the permit, saying that a deed restriction would be placed on the property stating the building could never be used as a permanent dwelling. They also said a dishwasher and washer and dryer would have to be removed.

The board voted 5-0 on the motion, made by ZBA member Michael Gill.

The dispute has been playing out between the town's land use boards for several

continued on page 15

ZBA rules on River Lane

continued from page one

months. The Planning Board filed a request for zoning enforcement earlier this fall (they missed a deadline to appeal the permit itself), which Lambiase, who is also the town's zoning enforcement officer, denied. The case was then taken to the ZBA itself.

The Planning Board said the permit never should have been issued, because the accumulation of amenities in the secondary structure makes it a dwelling. According to Duxbury's zoning rules, residents aren't allowed to have two dwellings on a single lot in the town's residential compatibility district.

However, "accessory buildings," are allowed, and Zoning Board members felt the poor definitions of such buildings in the bylaws lead to problems.

Most of the ZBA members felt that the building was a dwelling, but the discussion went back and forth as to whether or not that constituted a zoning violation.

"In my heart of hearts I know this town conceives of itself as a one-dwelling per lot community," said ZBA Chairwoman Judi Barrett. "It's hard for me to look at that structure and say that's a tool shed. I can't. It's a dwelling."

"I have struggled over this more than anything I've faced

on this board," she added.

"At the end of the day, it's got everything but a stove," said Gill. "I don't think you can be intellectually honest and say it's not a dwelling when it's got a dishwasher, a washer and dryer, etc."

The board quickly went through several aspects of the Planning Board's appeal, but the meat of the debate rested with the question not of physical dimensions, but intent of use.

"I'm having a hard time dictating how a structure that conforms to the bylaw physically ... how can this board or any other board dictate its use?" said Jill Cadigan-Christenson. "I think that's the issue we have to tackle."

The building, which was toured by members of the ZBA, was built by the homeowner (construction is nearly completed) to give her family members a place to stay while visiting. The building does not have a stove (Duxbury's rules say a building with a stove and either a refrigerator or a sink becomes a dwelling) but there is a washer and dryer, a living space with a fireplace, a sink, two bathrooms and a bedroom.

Barrett also expressed frustration with the way the bylaw is written. She said many other communities have rules re-

garding what can constitute a guest house, but Duxbury's archaic rule deals narrowly with the bed and breakfast type of "guest house."

"I think part of my frustration with this, in fairness to Scott ... you need to give him a bylaw he's going to be able to enforce," she said. "There are some obsolete definitions that need to be cleaned up ... frankly, that ball's in your [the Planning Board's] court."

ZBA member Dimitri Theodossiou said he felt the Planning Board didn't make its case strongly enough, and added he was disappointed not to hear more from that group at the last public hearing.

"I felt let down, I didn't hear what the real problem was," he said. "It's too vague ... I wasn't given the facts."

Several Planning Board members, as well as Town Planner Tom Broadrick, attended Monday's meeting but were not allowed to contribute to the discussion, as the public hearing had closed.

In the end, Gill said he had conferred with Town Counsel and discussed the option of a compromise solution.

"I think we have to balance the equities here," he said, noting that the homeowner did nothing wrong and acted, as far as she knew, on a valid building permit.

"Everyone would agree, what this discussion reveals is there are ambiguities in this bylaw," he said.

Changes to the bylaw would have to be made on Town Meeting floor. The Planning Board will be holding a public hearing on changes to the town's zoning bylaws at the Senior Center on Jan. 24.